

Assembly Bill No. 11

Passed the Assembly February 22, 2010

Chief Clerk of the Assembly

Passed the Senate February 22, 2010

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 14533.2 to the Government Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 11, Committee on Budget. Transportation: general obligation bonds: letters of no prejudice.

Existing law, the Clean Air and Transportation Improvement Act of 1990, authorizes the issuance of \$1.99 billion in general obligation bonds for rail and transit purposes. Existing law provides for the California Transportation Commission to allocate bond funds to eligible projects.

Existing law, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, authorizes the issuance of \$19.925 billion in general obligation bonds for various transportation purposes. Existing law designates an administrative agency that is responsible for programming these bond funds for the various categories of projects funded by the act. Existing law authorizes a regional or local agency that is a lead agency for a project to be funded under the act to apply to the administrative agency for a letter of no prejudice that permits the applicant to spend its own resources on the project and then to be reimbursed at a later date when bond funds become available, subject to various requirements and conditions.

This bill would enact similar provisions applicable to local agencies relative to projects to be funded by the Clean Air and Transportation Improvement Act of 1990.

The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on January 8, 2010.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on January 8, 2010, pursuant to the California Constitution.

The people of the State of California do enact as follows:

SECTION 1. Section 14533.2 is added to the Government Code, to read:

14533.2. (a) A local agency, as defined in Section 99602 of the Public Utilities Code, that is a lead applicant agency for a project that may be funded pursuant to the Clean Air and Transportation Improvement Act of 1990 (Part 11.5 (commencing with Section 99600) of Division 10 of the Public Utilities Code) may apply to the commission for a letter of no prejudice for the project or a component of the project. The commission may approve the letter of no prejudice for one or more projects or project components that the commission has programmed, allocated, or otherwise approved for funding. The letter of no prejudice shall reference the project or component thereof and the amount of bond funding that is programmed, allocated, or otherwise approved for that project or project component. The commission may approve a letter of no prejudice without further appropriation of funds in the Clean Air and Transportation Improvement Fund, as moneys in that fund are continuously appropriated to the commission for allocation pursuant to Section 99612 of the Public Utilities Code.

(b) Expenditures for the costs, up to the amount set forth in the letter of no prejudice, of a project or project component for which a letter of no prejudice has been issued shall be eligible for reimbursement from the Clean Air and Transportation Improvement Fund if all of the following apply:

(1) The project or project component for which the letter of no prejudice was requested has commenced and expenditures on the project or project component have been incurred by the local agency.

(2) The expenditures made by the local agency are eligible for reimbursement in accordance with state and federal laws and procedures, and are permitted expenditures under the applicable provisions of the Clean Air and Transportation Improvement Act of 1990 (Part 11.5 (commencing with Section 99600) of Division 10 of the Public Utilities Code). If expenditures made are determined to be ineligible, then the state has no obligation to reimburse for those expenditures.

(3) The local agency complies with all legal requirements for the project, including the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(4) The expenditures were incurred after the project or project component was programmed, allocated, or otherwise approved for funding by the commission.

(5) There is in the Clean Air and Transportation Improvement Fund an amount sufficient to make the reimbursement payment. Nothing in this section requires the fund to be funded at any particular time or in any particular amount.

(c) The commission and the local agency may enter into an agreement or agreements governing reimbursement as described in this section.

(d) Nothing in this section modifies any requirement under Part 11.5 (commencing with Section 99600) of Division 10 of the Public Utilities Code. Without limiting the foregoing, nothing in this section or in any letter of no prejudice shall eliminate or modify any condition or requirement for granting, allocation, or reallocation of funds or any other provision relating to grants, allocations, or reallocations in Part 11.5 (commencing with Section 99600) of Division 10 of the Public Utilities Code.

(e) For purposes of this section, “letter of no prejudice” means an agreement between a local agency and the commission that makes eligible for future reimbursement from bond proceeds the expenditure of funds under the control of the local agency, subject to availability of bond funds, as provided in this section. The timing and final amount of reimbursement is dependent on the terms of the agreement and the availability of bond funds. The final amount of reimbursement may be less than the amount stated in the letter of no prejudice.

SEC. 2. This act addresses the fiscal emergency declared by the Governor by proclamation on January 8, 2010, pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution.

Approved _____, 2010

Governor